

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GILEAD SCIENCES, INC.,

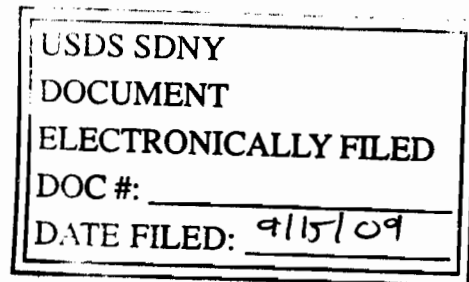
Plaintiff,

-v-

TEVA PHARMACEUTICALS USA, INC., *et al.*,

Defendants.

No. 08 Civ. 10838 (RJS)
ORDER



No. 09 Civ. 4463 (RJS)
ORDER

GILEAD SCIENCES, INC. and EMORY
UNIVERSITY,

Plaintiffs,

-v-

TEVA PHARMACEUTICALS USA, INC., *et al.*,

Defendants.

RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of the parties' September 11, 2009 joint letter, which was submitted in response to the Court's Order of August 13, 2009. The letter states that the parties have agreed to consolidate the above-captioned cases under one docket number, 08 Civ. 10838. Accordingly, IT IS HEREBY ORDERED THAT the parties shall submit an Amended Complaint and a stipulation of dismissal by September 25, 2009.

The joint letter also contains each party's proposed amendment to the current Case Management Plan. After considering the arguments that the parties put forth, the Court hereby adopts the Plaintiffs' proposed schedule, as reflected in the attached Revised Case Management Plan and Scheduling Order. The status conference previously set for October 16, 2009 at 9:45 a.m. will take place as scheduled.
SO ORDERED.

Dated: September 15, 2009
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

5. Initial disclosures related to the claims and defenses associated with ANDA No. 90-894 have been exchanged. Initial disclosures related to the claims and defenses associated with ANDA No. 91-215 pursuant to Rule 26(a)(1) will be completed not later than October 23, 2009.
6. All fact discovery is to be completed no later than April 23, 2010.
7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in ¶ 6 above:
 - a. Initial requests for production of documents for the claims and defenses associated with ANDA No. 91-215 are to be served by October 11, 2009.
 - b. Initial interrogatories for the claims and defenses associated with ANDA No. 91-215 are to be served by October 11, 2009. No interrogatories are to be served later than March 20, 2010.
 - c. Depositions are to be completed by April 23, 2010.
 - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority in deposition by reason of a party's status as plaintiff or defendant.
 - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.
 - d. Requests to Admit are to be served by March 19, 2010.
8. Claim construction disclosures and briefing are to be completed as follows:
 - a. The parties will exchange proposed meanings of claim terms on April 30, 2010.
 - b. Following the exchange of proposed meanings of claim terms, the parties are to meet and confer to determine if the Court's assistance is necessary to resolve claim construction disputes. If claim construction is necessary, the parties shall notify the Court by May 7, 2010 and shall proceed with briefing as described in ¶ 8.c.
 - c. If the parties disagree as to the meaning of claim terms (see ¶ 8.b.), opening claim construction briefs are to be simultaneously served and filed on June 25, 2010; rebuttal claim construction briefs are to be simultaneously served and filed on August 6, 2010 and, if necessary, the Court will schedule a claim construction hearing.

9. All expert disclosures, including reports, production of underlying documents and depositions are to be completed as follows:
 - a. If there is no dispute concerning the meaning of claim terms (see ¶ 8.b.); opening expert reports on issues where the party bears the burden of proof are due June 25, 2010; rebuttal expert reports are due August 6, 2010; and expert depositions are to be completed by September 17, 2010.
 - b. If the parties disagree as to the meaning of claim terms (see ¶ 8.b.); opening expert reports on issues where the party bears the burden of proof at trial are due September 17, 2010; rebuttal expert reports are due November 5, 2010; and expert depositions are to be completed by January 7, 2011.
10. All discovery is to be completed no later than:
 - a. September 17, 2010, if there is no dispute concerning the meaning of claim terms (see ¶ 8.b.).
 - b. January 7, 2011, if the parties disagree as to the meaning of claim terms (see ¶ 8.b.).
11. The parties are to promptly notify the Court that all discovery has been completed (see ¶ 10) within 48 hours of the completion of all discovery. The Court will schedule a post-discovery status conference within three weeks after being notified of the close of discovery.
12. Pre-motion letters regarding dispositive motions, if any, are to be submitted no later than two weeks prior to the post-discovery status conference date which is to be determined. In accord with this Court's Individual Rule 2.A, response letters thereto are to be submitted within three business days from service of the initial pre-motion letter.
13. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery (see ¶6).
14. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practice Rule 3 and Rule 26(a)(3). If this action is to be tried before a jury, proposed voir dire, jury instructions, and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.
15. The parties anticipate the need to enter into a Protective Order.
16. The parties have met and conferred and will continue to meet and confer regarding electronic discovery.

17. Parties have conferred and their present best estimate of the length of trial is two (2) weeks.

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TO BE COMPLETED BY THE COURT:

18. [Other directions to the parties:]
19. A status conference is scheduled for October 16, 2009 at 9:45 a.m..

SO ORDERED.

DATED: New York, New York

Sept. 15, 2009


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE